



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2014-0701; FRL-9925-93-Region 3]

Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Infrastructure Requirements for the 2008 Ozone, 2010 Nitrogen Dioxide, and 2010 Sulfur Dioxide National Ambient Air Quality Standards; Approval of Air Pollution Emergency Episode Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving portions of three State Implementation Plan (SIP) revision submittals from the District of Columbia (the District) pursuant to the Clean Air Act (CAA). Whenever new or revised national ambient air quality standards (NAAQS) are promulgated, the CAA requires states to submit a plan for the implementation, maintenance, and enforcement of such NAAQS. The plan is required to address basic program elements, including, but not limited to, regulatory structure, monitoring, modeling, legal authority, and adequate resources necessary to assure attainment and maintenance of the standards. These elements are referred to as infrastructure requirements. The District has made three separate submittals addressing the infrastructure requirements for the 2008 ozone NAAQS, the 2010 nitrogen dioxide (NO₂) NAAQS, and the 2010 sulfur dioxide (SO₂) NAAQS. One of the submittals also includes the “Revised Air Quality Emergency Plan for the District of Columbia” for satisfying EPA’s requirements for air quality emergency episodes.

DATES: This final rule is effective on [insert date 30 days from date of publication].

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2014-0701. All documents in the docket are listed in the www.regulations.gov website. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the District of Columbia Department of the Environment, Air Quality Division, 1200 1st Street NE., 5th floor, Washington, DC 20002.

FOR FURTHER INFORMATION CONTACT: Emlyn Vélez-Rosa, (215) 814-2038, or by e-mail at velez-rosa.emlyn@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On January 21, 2014 (80 FR 2865), EPA published a notice of proposed rulemaking (NPR) for the District. In the NPR, EPA proposed approval of portions of the District's three infrastructure SIP submissions addressing the requirements of section 110(a)(2) of the CAA for the 2008 ozone NAAQS, the 2010 NO₂ NAAQS, and the 2010 SO₂ NAAQS. The NPR also proposed approval

of the District's Air Quality Emergency Plan to meet EPA's requirements for air pollution prevention contingency plans in 40 CFR part 51, subpart H and section 110(a)(2)(G) of the CAA.

II. Summary of SIP Revision

The District, through the District Department of the Environment (DDOE), submitted three separate revisions to its SIP to satisfy the requirements of section 110(a)(2) of the CAA for the different NAAQS. On June 6, 2014, DDOE submitted a SIP revision addressing the infrastructure requirements for the 2010 NO₂ NAAQS. On June 13, 2014, DDOE submitted an infrastructure SIP revision for the 2008 ozone NAAQS. On July 17, 2014, DDOE submitted an infrastructure SIP revision for the 2010 SO₂ NAAQS. Each of the infrastructure SIP revisions addressed the following infrastructure elements for the applicable NAAQS: Section 110(a)(2)(A), (B), (C), (D)(i)(I), (D)(i)(II), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M) of the CAA. The infrastructure SIP submittals do not address section 110(a)(2)(I) which pertains to the nonattainment requirements of part D, Title I of the CAA, because this element is not required to be submitted by the 3-year submission deadline of CAA section 110(a)(1) and will be addressed in a separate process, if necessary.

As discussed in the NPR, EPA will take separate action on the portions of the three infrastructure submittals addressing section 110(a)(2)(D)(i)(I) requiring the SIP to address emissions from sources which significantly contribute to nonattainment or interference with maintenance of the NAAQS (also referred to as transport) in another state. In addition, EPA is not required to take rulemaking action on the PSD-related portions of section 110(a)(2)(C), (D)(i)(II), (D)(ii), and (J)

for the District's infrastructure SIP submittals, as EPA found these portions of each of the infrastructure SIP submittals technically incomplete, because the District has not adequately addressed the SIP requirements of part C of Title I of the CAA for having a SIP-approved PSD program.¹ However, EPA recognizes that the District is already subject to a Federal Implementation Plan (FIP) containing the Federal PSD program that addresses the relevant SIP requirements.² EPA does not anticipate any adverse consequences to DDOE from these incompleteness findings. In addition, EPA is not subject to any further FIP duties from these incompleteness findings because a FIP has already been issued to address this SIP deficiency.

In addition, the June 13, 2014 SIP submittal included the "Revised Air Quality Emergency Plan for the District of Columbia" to satisfy the requirements for preventing air pollution emergency episodes in 40 CFR part 51, subpart H for all applicable pollutants (i.e., those for which the District is classified as a Priority I region under 40 CFR 52.471, including particulate matter, sulfur oxides (SO_x), carbon monoxide (CO), and ozone), as well as section 110(a)(2)(G) of the CAA for the three subject NAAQS.

EPA's rationale for taking this rulemaking action, including the scope of infrastructure SIPs in general, is explained in the NPR and the technical support document (TSD) accompanying the NPR and will not be restated here. The TSD for this rulemaking is available at www.regulations.gov, Docket number EPA-R03-OAR-2014-0701. No public comments were received on the NPR.

¹ EPA sent letters to DDOE in July 21, 2014 and November 4, 2014 notifying the District of these determinations for each of the applicable NAAQS. Copies of these letters are included in the docket for this rulemaking action.

² At present, the PSD FIP, incorporated by reference in the District SIP in 40 CFR 52.499, specifically contains the provisions of 40 CFR 52.21, with the exception of paragraph (a)(1).

III. Final Action

EPA is approving the District's infrastructure submittals dated June 6, 2014, June 13, 2014, and July 17, 2014 for the 2010 NO₂ NAAQS, the 2008 ozone NAAQS, and the 2010 SO₂ NAAQS, respectively, as meeting the following requirements of section 110(a)(2) of the CAA for the three relevant NAAQS: 110(a)(2)(A), (B), (C), (D)(i)(II), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). EPA will take later separate action on the portions of each of the submittals addressing section 110(a)(2)(D)(i)(I), pertaining to transport. EPA is also approving as a SIP revision the "Revised Air Quality Emergency Plan for the District of Columbia," submitted on June 13, 2014, as it satisfies the requirements of 40 CFR part 51, subpart H for all applicable pollutants and section 110(a)(2)(G) of the CAA for the 2008 ozone NAAQS, the 2010 NO₂ NAAQS, and the 2010 SO₂ NAAQS.

IV. Statutory and Executive Order Reviews

A. General Requirements

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);

- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal

governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [Insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be

filed, and shall not postpone the effectiveness of such rule or action. This action, pertaining to the District of Columbia's section 110(a)(2) infrastructure requirements for the 2008 ozone, the 2010 NO₂, and the 2010 SO₂ NAAQS and to the District of Columbia's contingency plan for the prevention of air pollution episodes, may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 et seq.

Dated: March 24, 2015.

William C. Early, Acting
Regional Administrator,
Region III.

40 CFR part 52 is amended as follows:

PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart J—District of Columbia

2. In § 52.470, the table in paragraph (e) is amended by adding the following four entries at the end of the table:

- a. “Section 110(a)(2) Infrastructure Requirements for the 2010 NO₂ NAAQS”;
- b. “Section 110(a)(2) Infrastructure Requirements for the 2008 Ozone NAAQS”;
- c. “Section 110(a)(2) Infrastructure Requirements for the 2010 SO₂ NAAQS”; and
- d. “Emergency Air Pollution Plan”.

The additions read as follows:

§ 52.470 Identification of plan.

* * * * *

(e)* * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
* * * * *				
Section 110(a)(2) Infrastructure Requirements for the 2010 NO ₂ NAAQS	Statewide	6/9/14	[Insert Federal Register publication date] [Insert Federal Register Citation]	This action addresses the following CAA elements: 110(a)(2)(A), (B), (C), (D)(i)(II), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). PSD related portions are

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
				addressed by FIP in 40 CFR 52.499.
Section 110(a)(2) Infrastructure Requirements for the 2008 Ozone NAAQS	Statewide	6/13/14	[Insert Federal Register publication date] [Insert Federal Register Citation]	This action addresses the following CAA elements: 110(a)(2)(A), (B), (C), (D)(i)(II), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). PSD related portions are addressed by FIP in 40 CFR 52.499.
Section 110(a)(2) Infrastructure Requirements for the 2010 SO ₂ NAAQS	Statewide	7/17/14	[Insert Federal Register publication date] [Insert Federal Register Citation]	This action addresses the following CAA elements: 110(a)(2)(A), (B), (C), (D)(i)(II), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). PSD related portions are addressed by FIP in 40 CFR 52.499.
Emergency Air Pollution Plan	Statewide	6/13/14	[Insert Federal Register publication date] [Insert Federal Register Citation]	This action addresses the requirements of 40 CFR 51, subpart H for particulate matter, sulfur oxides (SO _x), carbon monoxide (CO), and ozone, as well as section 110(a)(2)(G) of the CAA for the 2008 ozone, 2010 SO ₂ , and 2010 NO ₂ NAAQS.

[FR Doc. 2015-08182 Filed: 4/10/2015 08:45 am; Publication Date: 4/13/2015]